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SENATE BILL 360

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO WATER; PROVIDING FOR A STRATEGIC WATER RESERVE;
PROVIDING FOR ADDITIONAL POWERS AND DUTIES OF THE INTERSTATE
STREAM COMMISSION; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX
BONDS FOR THE ACQUISITION OF WATER RIGHTS FOR THE STRATEGIC
WATER RESERVE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 72, Article 14 NMSA
1978 is enacted to read:

"[NEW MATERIAL] INTERSTATE STREAM COMMISSION--ADDITIONAL
POWERS--STRATEGIC WATER RESERVE.--

A. The interstate stream commission shall establish
a strategic water reserve and may purchase from willing sellers
or lease or receive through donation surface water rights to
comprise the reserve. The commission may also purchase or

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1 lease from willing sellers or lessors or receive by donation
2 underground water rights for the strategic water reserve if no
3 net depletions in the basin occur as a result. The commission
4 shall purchase or lease water rights and may acquire storage
5 rights at no more than the appraised market value of those
6 water rights for the strategic water reserve. The commission
7 may accept money or grants from federal or other governmental
8 entities to purchase or lease water rights for the strategic
9 water reserve. The commission shall not acquire water rights
10 that are served by or owned by an acequia or community ditch
11 for inclusion in the strategic water reserve. The commission
12 shall acquire only water rights recognized by the state
13 engineer to have sufficient seniority and consistent, historic
14 beneficial use to effectively contribute to the purpose of the
15 strategic water reserve. The commission shall not acquire
16 water rights for the strategic water reserve by condemnation.
17 Water rights in the strategic water reserve shall not be
18 subject to forfeiture pursuant to Chapter 72 NMSA 1978.

19 B. Water rights in the strategic water reserve
20 shall be used to:

21 (1) assist the state in complying with
22 interstate stream compacts and court decrees; or

23 (2) assist water users in complying with the
24 federal Endangered Species Act of 1973 or other federal or
25 state law as part of a collaboratively developed compliance

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1 program involving state and federal agencies and water users.

2 C. The interstate stream commission may sell or
3 lease water rights from the strategic water reserve at no less
4 than the appraised market value only if the rights are no
5 longer necessary for the purposes for which they were acquired
6 for the reserve.

7 D. Water rights for the strategic water reserve or
8 water rights sold or leased from the reserve shall remain in
9 their river reach or ground water basin of origin.

10 E. Transactions with members of an irrigation or
11 conservancy district established pursuant to Chapter 73 NMSA
12 1978 shall provide for equal income to the district that would
13 accrue to the district in the absence of the transaction."

14 Section 2. A new section of the Severance Tax Bonding Act
15 is enacted to read:

16 "[NEW MATERIAL] BONDING CAPACITY--AUTHORIZING ISSUANCE OF
17 SEVERANCE TAX BONDS FOR THE STRATEGIC WATER RESERVE.--

18 A. By January 15 of each year, the board of finance
19 division of the department of finance and administration shall
20 estimate the amount of bonding capacity available for severance
21 tax bonds to be authorized by the legislature. The division
22 shall authorize ten percent of the estimated bonding capacity
23 each year beginning in fiscal year 2005 and ending in fiscal
24 year 2025, and the legislature authorizes the state board of
25 finance to issue severance tax bonds in the annually deducted

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1 amount for use by the interstate stream commission for the
2 acquisition and leasing of water rights and storage rights for
3 the strategic water reserve.

4 B. The interstate stream commission shall certify
5 to the state board of finance the need for issuance of bonds
6 for acquisition of water rights for the strategic water
7 reserve. The state board of finance may issue and sell the
8 bonds in the same manner as other severance tax bonds in an
9 amount not to exceed the authorized amount provided for in this
10 section. If necessary, the state board of finance shall take
11 the appropriate steps to comply with the federal Internal
12 Revenue Code of 1986. Proceeds from the sale of the bonds are
13 appropriated to the interstate stream commission to acquire and
14 lease water and storage rights for the strategic water reserve.

15 C. Any unexpended balance from proceeds of
16 severance tax bonds issued for the strategic water reserve
17 shall revert to the severance tax bonding fund as of the first
18 day after the end of the tenth fiscal year following the fiscal
19 year in which the severance tax bonds were issued, after
20 reserving for unpaid costs and expenses covered by binding
21 written obligations to third parties."

22 Section 3. Section 72-4A-5 NMSA 1978 (being Laws 2001,
23 Chapter 164, Section 5, as amended by Laws 2003, Chapter 139,
24 Section 3 and by Laws 2003, Chapter 365, Section 1) is amended
25 to read:

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1 "72-4A-5. BOARD--DUTIES.--The board shall:

2 A. adopt rules governing terms and conditions of
3 grants or loans recommended by the board for appropriation by
4 the legislature from the water project fund, giving priority to
5 projects [~~that have urgent needs~~]:

6 (1) that have been identified [~~for~~
7 ~~implementation of~~] as being urgent to meet the needs of a
8 regional water planning area that has had a completed regional
9 water plan [~~that is~~] accepted by the interstate stream
10 commission; [~~and~~]

11 (2) that have matching contributions from
12 federal or local funding sources; and

13 (3) that have obtained all requisite state and
14 federal permits and authorizations necessary to initiate a
15 project;

16 B. authorize qualifying water projects to the
17 authority that are for:

18 (1) storage, conveyance or delivery of water
19 to end users;

20 (2) implementation of the federal Endangered
21 Species Act of 1973 collaborative programs;

22 (3) restoration and management of watersheds;

23 (4) flood prevention; or

24 (5) [~~water~~] conservation, [~~and~~] recycling,

25 treatment or reuse of water as provided by law;

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C. prioritize the purpose and place of use of the water rights needed for the strategic water reserve and transmit its priority recommendations to the interstate stream commission. The recommendations shall consider:

(1) the advice of the office of the state engineer, the interstate stream commission, the department of game and fish, the state land office and the attorney general's office;

(2) geographic balance; and

(3) availability of storage capacity; and

~~[G.]~~ D. create a drought strike team to coordinate responses to emergency water shortages caused by drought conditions."